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BREWPUBS' ELIGIBILITY TO APPLY FOR LISTINGS TO SELL PRODUCT OFF-SITE

Regulatory Impact Statement

March 31, 2000

Presented to
Honourable Ian Waddell
Minister of Small Business, Tourism and Culture

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BREWPUBS' ELIGIBILITY TO APPLY FOR LISTINGS TO SELL PRODUCT OFF-SITE

Regulatory Impact Statement

Executive Summary

Issue

The Minister of Small Business, Tourism and Culture is acting in response to a recent decision of the Supreme Court of British Columbia. The court decision upheld the ruling of the Liquor Appeal Board that there is no legislative basis to preclude brewpubs from applying to the Liquor Distribution Branch for a listing that would allow the brewpubs to sell their products off-site.

The Minister will instruct the General Manager, Liquor Distribution Branch, to abide by the Supreme Court decision. As a result, brewpubs are eligible to apply for listings for off-site sales of their products, subject to only normal commercial considerations as specified in the *Liquor Distribution Act*.

Liquor Distribution Branch staff will meet with brewpub representatives to develop the framework for implementing this decision.

Observations

This Regulatory Impact Statement addresses only the impacts arising from the decision by the Minister of Small Business, Tourism and Culture with regard to the off-site sale of brewpubs' product.

However, some information received throughout this Regulatory Impact Statement process is with regard to licensing issues not directly related to this decision. This information has been passed on to the Liquor Control and Licensing Branch, Ministry of Attorney General for review.

1. Is the Problem Correctly Defined?

The objective of this Regulatory Impact Statement is to document the impacts of any decision with regard to the BC Supreme Court ruling that a current government policy limiting brewpubs' ability to apply for listings to sell product off-site is not supported by existing provisions in the *Liquor Distribution Act.*

2. Is government action justified?

Government currently regulates all aspects of the manufacture, distribution, and sale of alcoholic beverages. This is consistent with all North American jurisdictions reviewed during the Regulatory Impact Statement process.

3. Is regulation the best form of government action?

The proposal in this Regulatory Impact Statement is to accept the decision of the Supreme Court of British Columbia. Therefore, there is no need to make any legislative changes or enact new regulations.

4. What is the best regulatory approach?

Two regulatory approaches were considered: accept the Supreme Court decision or propose legislative amendments to restore the policy under which brewpubs were refused off-site product listings. The Ministry proposes to abide by the Supreme Court decision which will, in turn, allow brewpubs to apply for listings to sell product off-site.

5. Is there a legal basis for provincial regulatory policy?

This area of legislation is constitutionally within provincial jurisdiction.

6. What is the appropriate level of government for this action?

As this is a matter regulated by provincial legislation, the Province is the level of government most appropriate to deal with the situation.

7. Do the benefits of regulatory policy justify the costs?

This decision would provide the consumer with more product choice. The government fiscal impacts stemming from this decision are minimal. All the brewpubs that responded indicated a positive impact on their sector resulting from this action. The craft brewery sector is concerned that their members would be

negatively impacted if brewpubs are able to sell their brewed products off-site. Where a product distinction was made, their concern is focused on kegged product. The commercial/regional brewers note the greatest impact as competition for shelf space in government liquor stores. Members of both the craft brewer and brewpub sectors have suggested that benefits from a more diversified brewpub sector may have downstream economic benefits for the craft brewing sector as well – due to the enhanced profile of specialty beers.

8. Will there be an impact on British Columbia's competitiveness?

As a result of this review, it would seem that any impact on British Columbia's competitiveness would be negligible. A review of twelve other jurisdictions (see Appendix C), including three in the United States, was conducted by the Liquor Distribution Branch. The research revealed that all examined jurisdictions have a variety of regulations applicable to brewpubs and all maintain differentiating licenses for brew manufacturers. Three limit brewpubs' production to a specified maximum and eight had limitations on manufacturers' access to market. Ten of these jurisdictions permitted at least some off-site distribution by brewpubs and only two (including a specific license type in Washington State) were as restrictive as British Columbia with respect to brewpubs.

9. How will a policy that is clear, consistent, comprehensible and accessible to users be assured?

This Regulatory Impact Statement will be communicated to all stakeholders by providing them with a printed copy and making it available to the public through the Regulatory Impact Statement website at *http://www.streamline.gov.bc.ca/ris.htm* and with references from other relevant government websites.

10. Have all the parties have an opportunity to present their views?

Yes, all stakeholders have had an opportunity to present their views through solicitation of written submissions, meetings and telephone calls. This process has been comprehensive, open, and inclusive.

11. What are the views of front-line staff?

It is the view of front-line staff that this change and the expected increase in listing applications will have little impact on the volume of their administrative responsibility. More significantly, they believe that the interests of the public will be better served with a potentially wider variety of brewed beverage products to choose from.

BREWPUBS' ELIGIBILITY TO APPLY FOR LISTINGS TO SELL PRODUCT OFF-SITE

Regulatory Impact Statement

1. Is the Problem Correctly Defined?

This Regulatory Impact Statement was initiated as a result of a BC Supreme Court decision (Vancouver Registry No: A991079). This decision upheld the findings of the Liquor Appeal Board that current government policy with regard to brewpubs' ability to apply for listings was not supported by existing provisions in the *Liquor Distribution Act*, RSBC 1996 CHAPTER 268.

This Regulatory Impact Statement is being used to document the impacts of alternative responses to the Supreme Court decision. Alternatives considered included possible changes to the *Liquor Control and Licensing Act*, RSBC 1996 CHAPTER 267.

Maintaining the "status quo" for stakeholders would mean changes to one or more *Acts* and accompanying *Regulations*. The Minister requesting the Regulatory Impact Statement, the Honourable Ian Waddell, is responsible for the Liquor Distribution Branch which is regulated by the *Liquor Distribution Act*. The Liquor Control and Licensing Branch, charged with administering the *Liquor Control and Licensing Act*, falls within the responsibility of the Attorney General.

Two alternative responses to the Supreme Court decision contemplated during the Regulatory Impact Statement process were:

1. take action to make legislative changes to the *Liquor Distribution Act* that would support the original intent of the policy (e.g. maintain the current system); or,

2. instruct the General Manager, Liquor Distribution Branch to abide by the Supreme Court decision, resulting in brewpubs being able to apply for listings for off-site sales, and recommend further analysis of licensing-related issues by the Liquor Control and Licensing Branch, Ministry of Attorney General.

Background

Brewpubs were first licensed in 1984. A brewpub is the combination of a licensed retail establishment (e.g. pub, restaurant, etc. or a combination thereof) with a small on-site brewery manufacturing beer. Production is limited only by the brewpub's ability to sell. Subject to the outcome of this review and subsequent applications for off-site listings, sale of the brewpub's beer is restricted to on-premise consumption. However, bottled products may also be sold if the licensee has an off-sale endorsement for the pub or an attached Licensee Retail Store (e.g. cold beer and wine store).

The business relationship between a licensed brewpub and the Liquor Distribution Branch is formally outlined in General Manager's Orders. While no legislation exists which explicitly prohibits brewpubs from applying for listings to permit off-site sale of their product, a General Manager's Order expresses the policy that a brewpub may only sell its product to retail customers on-site and not to licensees or any other person for resale.

Brewpubs have lobbied government to change the policy to allow them increased access to the market. The most recent policy change – to allow brew pubs to sell their bottled products for off-sale to the general public at their own site, as noted above – was a result of recommendations made by the Policy Review Panel, chaired by John Jansen, MLA, Chilliwack, in its June 1987 report entitled Liquor Policies for British Columbians. Since then, brewpubs have continued to lobby, specifically, to sell to other licensees and through government liquor stores.

In 1997, Tex C. Enemark completed the Report to the Attorney General of B.C.: Matters of Liquor Control, Licensing and Distribution. Enemark had a mandate to examine only the licensing of U-Brews and U-Vins; opening of government liquor stores on Sunday and statutory holidays; use of credit cards in government liquor stores; licensing of billiard establishments; and, entertainment and games in the restaurant industry.

In January, 1999, Jo Surich completed the Review of Liquor Regulations in the Province of British Columbia, focusing primarily on licensing streamlining issues with no comment on the distribution of brewpub products in its final recommendations.

In 1996, Spinnaker's Brewpub ("Spinnaker's"), which is subject to General Manager's Order 2/92, applied for a specialty listing to sell bottled beer to government liquor stores and licensees for resale. The General Manager did not grant a specialty listing as to do so would contravene Order 2/92. Spinnaker's appealed this decision to the Liquor Appeal Board, which heard the case in April, 1998. The Liquor Appeal Board made the decision to allow the appeal, on the

basis that Order 2/92 has no application to listing decisions. The Liquor Appeal Board sent the matter (e.g. the listing application) back to the General Manager of the Liquor Distribution Branch for reconsideration. In July, 1998, the General Manager applied for a judicial review by the Supreme Court of British Columbia to ask for an order to quash the Liquor Appeal Board decision. The case was heard in October, 1999, and the ruling, dated November 18, 1999 upheld the decision of the Liquor Appeal Board.

The General Manager of the Liquor Distribution Branch must now reconsider the listing application from Spinnaker's and base his decision on solely commercial considerations as outlined in section 16(5) of the *Liquor Distribution Act*. Despite the fact that the actual application in the case was for a specialty listing for bottled beer, the Supreme Court ruling now requires the General Manager to consider all listing applications made by brewpubs and grant such listings subject only to commercial considerations as described above.

Process

On February 16, 2000, Minister Waddell announced that a Regulatory Impact Statement would be undertaken by the Assistant Deputy Minister of Small Business to document the impact of the decision on industry stakeholders.

Industry stakeholders were invited to send written submissions and to meet with ministry staff (see Appendix E). Stakeholders included all brew pubs, all craft brewers (also known as micro-brewers), all commercial/regional brewers, the Craft Brewers Association of B.C. (representing some craft brewers), the Western Brewers Association (representing the commercial/regional brewers as well as several craft brewers), and the Brewery, Winery and Distillery Workers Local 300 Union (generally representing the workers in the commercial/regional sector). In addition, key officials from both the Liquor Distribution Branch, Ministry of Small Business, Tourism and Culture, and the Liquor Control and Licensing Branch, Ministry of Attorney General, were consulted.

As the first of two questions, stakeholders were asked to describe the impact on their business if brewpubs were able to sell their products off-site. This question is a direct reference to the Supreme Court decision.

To establish a context for the Regulatory Impact Statement, correspondence from stakeholders relating to the issue of distribution of brewpub products dating back to 1991 was reviewed. As a result of this initial research and analysis, and in an to attempt to address a specific concern from industry stakeholders that the policy change would result in an "uneven playing field" to the disadvantage of craft brewers, a further question was asked of the respondents.

Specifically, stakeholders were also asked to identify the impacts of allowing craft and commercial/regional brewers to operate on-site licensed establishments. This option was a reflection of past requests in this regard from some craft brewers and the Craft Brewer's Association.

The responses to these questions are detailed in section #7 and Appendix A.

2. Is government action justified?

Government action is justified. Government regulations govern the manufacture, distribution, and consumption of alcohol in all Canadian jurisdictions.

The Government of British Columbia has long been aware of the desire of stakeholders in the brewing industry to conduct business on a "level playing field". Where a disparity or inequality has been identified by government and stakeholders, efforts have been made to rectify the situation.

In this instance, an interpretation of the *Liquor Distribution Act* by the Liquor Appeal Board (upheld by the Supreme Court of British Columbia) has altered the system.

The Supreme Court ruling reverses current policy.

3. Is regulation the best form of government action?

Can government deal with this issue using non-regulatory means?

Legislation regulates the entire system for liquor production, distribution and sale in the Province of British Columbia. There is no viable non-regulatory option available when dealing with this industry's structure.

A possible alternative could be to allow the Liquor Distribution Branch to deal with the issue by policy and internal procedures. This alternative was not seen as viable as it is an attempt to regulate without specific legislative authority. Further, the prior attempt to deal with this issue solely by policy is what gave rise to the requirement for this Regulatory Impact Statement process.

Action to be taken in this instance?

The proposal in this Regulatory Impact Statement is to abide by the Supreme Court decision. This proposal will not create any additional regulation under the *Liquor Distribution Act* with respect to the issue reviewed.

4. What is the best regulatory approach?

Alternatives?

Two alternative regulatory approaches were considered:

1. *Take action to make legislative changes to the Liquor Distribution Act that would support the original intent of the policy, which is to limit the distribution of brewpub product.*

   Taking this approach would make into law the policy as it existed prior to the Supreme Court decision. However, this action would be unresponsive to some of the issues raised during the course of this Regulatory Impact Statement process.

2. *Instruct the General Manager, Liquor Distribution Branch to abide by the Supreme Court decision, and recommend the Liquor Control and Licensing Branch, Ministry of Attorney General undertake further analysis of the licensing-related issues raised during stakeholder discussions.*

   The outcome of this approach is that brewpubs can now make applications to the Liquor Distribution Branch for listings to sell their products off-site. This opportunity was not available to them before the Supreme Court's decision due to the restrictions contained in the General Manager's Orders. Now these applications must be given fair consideration compared with other similar products based on only commercial considerations and any other reasons specifically authorized by the *Liquor Distribution Act*.

Other Jurisdictions?

Twelve other jurisdictions (including two in the United States) were canvassed to determine the various regulatory measures used in the areas of alcohol manufacture, distribution, and sale. All regulate alcohol through legislation

although only two jurisdictions wholly restrict brewpubs from off-site sales, as does BC (see section 8 and Appendix C)

5. Is there a legal basis for provincial regulatory policy?

The provincial government's legislative authority in this area is derived from its power to exclusively legislate in matters of property and civil rights within the province pursuant to section 92(13) of the *Constitution Act, 1867* or alternatively pursuant to section 92(16) of this *Act,* being all matters of a merely local or private nature in the province.

As the proposal expressed in this Regulatory Impact Statement is to take no new regulatory action, this issue need not be considered.

6. What is the appropriate level of government for this action?

As this is a matter regulated by the *Liquor Distribution Act*, the Province is the level of government most appropriate to deal with the situation.

With regard to the specific issue of this Regulatory Impact Statement, other levels of government would not be involved at this point in the process. Municipal governments, for example, regulate issues of zoning and other matters relating to the licensing of neighborhood pubs, which are beyond the scope of this review.

7. Do the benefits of regulatory policy justify the costs?

A summary of these impacts is illustrated in Appendix A

Consumer Impacts

As a benefit to the consumer, this and other potential additional listings would provide more choice, and increased accessibility. However, it must be recognized that the total market for specialty brews (brewpubs and craft brewers combined) is a relatively small niche market, currently accounting for approximately 5% of the provincial beer market.

Fiscal Impacts

In abiding by the Supreme Court decision, the General Manager of the Liquor Distribution Branch must reconsider Spinnaker's application for the specialty

listing. The decision to approve such a listing must now be based on solely commercial considerations.

Without further analysis of broader issues by the relevant regulatory authorities it is difficult to determine the total government fiscal impact specific to this decision (tax revenue, regulatory action, etc.). At this time they are believed to be minimal. According to Liquor Distribution Branch staff, if brewpub products are given listings for off-site sales there is an immediate potential for minor Liquor Distribution Branch administrative costs related to product distribution. These minor costs would relate to a slight increase in administration time for the newly listed products.

Business Impacts

Brewpubs

Some brewpubs have current capacity for increased production to allow for wider distribution. This would facilitate increased access to the market and increased economic benefits.

If government were to change legislation to disallow brewpubs to sell their products off-site, there is no empirical evidence that the brewpub sector would falter. Instead, it is likely that brewpubs' markets would remain relatively static. This lost opportunity for diversification in the marketplace resulting from such a legislative change may have a generally negative impact on consumer awareness and appreciation of their products.

Based on information received from both the Craft Brewers Association of B.C. and the Western Brewers Association, and confirmed by statistics provided by the Liquor Distribution Branch, of the three manufacturing sectors, brewpubs are generally regarded as the most profitable, stable, and likely to experience growth. (see Appendix D.)

The brewpub operators who responded to the ministry's letter indicated the business impacts to them would be likely to invest in additional equipment for bottling and or manufacturing, label design and printing, trucking or use of local trucking companies, and additional human resources. Any of these investments would benefit the local British Columbia economy.

Liquor Distribution Branch data dating from 1995 indicates that provincial brewpub sales have increased annually, from $851,000 in 1995 to $3.5 million in 1999. In 1999, brewpubs sold 12,473 hectolitres, representing 0.5% of the British Columbia market.

Craft Brewers ("Microbreweries")

Craft brewers are currently facing competition from both importers and commercial/regional brewers who have been able to introduce specialty products into the provincial market. If brewpubs were to become direct competitors in licensees and Liquor Distribution Branch stores, the craft brewery sector claims that their members would be negatively impacted. Where product type is specifically mentioned in their responses to the Ministry's letter on the listing issue, craft brewers identify the competitive market for kegged product as that most likely to be affected.

There are other factors, not related to the focus of this Regulatory Impact Statement that have been raised by some craft brewers as having negative economic impacts on them. Some of these include topics of ongoing discussions with the Liquor Distribution Branch. Those factors that relate to licensing issues will be forwarded to the attention of the Attorney General.

However, benefits from a more diversified brewpub sector may have downstream economic benefits for the craft brewing sector as well – due to the enhanced profile on domestically produced specialty beers. This effect was suggested in a March 1, 2000, article in the Globe and Mail describing Vancouver Island participants in "Brew Trail Tours". Notably, no sector distinction or competition was suggested between brewpubs and craft brewers in their activities to promote premium, small-batch brewed products.

Liquor Distribution Branch data dating from 1995 indicates that the amount of beer sold by craft breweries started to decline in 1997 (108,698 hectolitres) and continued to decline in 1999 (99,347 hectolitres). In 1999, craft brewers sold $36 million worth of beer, with volumes accounting for 4.1% of the domestic market.

Commercial/Regional Brewers

Commercial/regional brewery sales far outnumber those of the brewpubs and craft brewers combined, accounting for approximately 95.5% of the domestic market in 1999. This situation has remained consistent at least since 1995, even though overall beer consumption in the province has declined. In 1999, commercial/regional breweries sold 2,312,874 hectolitres of beer, worth $803 million, compared to 1995 when 2,484,997 hectolitres of beer, worth $766 million was sold.

Commercial/regional breweries have been able to diversify and maintain market share by introducing specialty beers into the market. They have, from time to time, sought to acquire significant competitors in a bid to maintain market share. The Western Brewers Association has noted that the fall in beer sale volumes

negatively impacted the smaller craft brewers, rather than any of the major brewers. The commercial/regional brewers note the greatest impact of the decision for them will be increased competition for shelf space in government liquor stores.

There is a general feeling from the representatives of the Brewery, Winery and Distillery Workers Union, Local 300, that any change could potentially threaten member jobs in this sector. Their concern seems to be supported by the assertion that recent streamlining and modernization initiatives undertaken by the two major commercial brewers appears to have been a key factor in job loss for their members.

Economic and Regional Impacts

Under the current legislative framework, and as a result of the Liquor Appeal Board and Supreme Court decisions, brewpubs would be allowed to apply for listings to sell their products off-site. One benefit would be the increase in the variety of provincially produced specialty beer that is more readily accessible to the market and consumers (e.g. not just limited to a single location).

Craft brewers are concerned about the impact increased competition may have on their industry. The submission by the Craft Brewers Association of B.C. has indicated that some craft brewers are currently facing economic hardship due to competitive market factors, most unrelated to the focus of this Regulatory Impact Statement process.

In Washington, Oregon, and California there are a number of annual events and tours designed to increase the profile of premium beer. It should be noted that the brewers in these jurisdictions are not differentiated as a "brewery" or "brewpub" with regard to promoting the events. In British Columbia, increased industry exposure may enhance both brewpub and craft brewer profiles, thereby increasing the economic viability for both types of small businesses. Once introduced to specialty products, consumers may be interested in visiting and tasting similar products at different brewery sites in many different communities. There is potential for tourism and regional economic development opportunities such as the "Ale Trail" event held in Ontario, and the "Brew Trail Tour" on Vancouver Island.

8. Will there be an impact on British Columbia's competitiveness?

As a result of this review, it would seem that any impact on British Columbia's competitiveness would be negligible. A review of twelve other jurisdictions

(detailed in Appendix C), including three in the United States, was conducted by the Liquor Distribution Branch. The research revealed that all examined jurisdictions have a variety of regulations applicable to brewpubs and all maintain differentiating licenses for brew manufacturers. Three limit brewpubs' production to a specified maximum and eight had limitations on manufacturers' access to market. Ten of these jurisdictions permitted at least some off-site distribution by brewpubs and only two (including a specific license type in Washington State) were as restrictive as British Columbia with respect to brewpubs.

Increased selection combined with the industry promotion of the products produced by the brewpubs and craft brewers should enhance BC's competitiveness in this industry. Currently, there are no BC restrictions on the export of brewpub product. However, it has been suggested that due to limited exposure, there is resultant limited ability or opportunity for brewpubs to market within BC. With enhanced exposure gained from increased distribution within the province, notably to the tourist consumer, increased export opportunities could result.

As for competition within BC, consumer preference continues to be the prevailing force in the success or failure of brewed product – whether foreign or domestic. However, where a distinction in product was made, craft brewers contend that this increased market access will unfairly increase competition in the market for kegged product.

9. How will a policy that is clear, consistent, comprehensible and accessible to users be assured?

The Minister's decision to instruct the General Manager, Liquor Distribution Branch to abide by Supreme Court ruling will be communicated to all stakeholders by providing them with a copy of this Regulatory Impact Statement. In addition, the Regulatory Impact Statement will be made available to the public through the Regulatory Impact Statement website at *http://www.streamline.gov.bc.ca/ris.htm* and will be referenced with links from other relevant government websites.

10. Have all the parties have an opportunity to present their views?

Yes, all stakeholders have had an opportunity to present their views (see Appendix B).

On March 2, 2000, a letter from the Assistant Deputy Minister of Small Business responsible for carrying out the Regulatory Impact Statement, was faxed to all brew pubs, craft brewers and commercial/regional brewers, asking them to respond to the two following questions, and where possible, provide quantified supporting data:

1. *What would be the impact on your business of permitting brew pubs to sell their product through other licensees and liquor stores subject to making a successful listing application to the Liquor Distribution Branch?*

2. *What would be in impact on your business if the existing legislation were amended to permit Craft and other brewers to operate on-site licensed establishments at their brewery premises?*

In the context of the two options considered in this Regulatory Impact Statement, question #1 refers to regulatory action being undertaken by the Minister responsible for the Liquor Distribution Act, Honourable Minister Waddell. Question #2, however, is an inquiry based on indications of prior considerations by both government and industry. However, any action in this regard would be taken by the Liquor Control and Licensing Branch as directed by the Attorney General.

Respondents were invited to meet with the Assistant Deputy Minister. The two industry associations (Western Brewers Association and Craft Brewers Association) were also informed of the above request and asked to provide the Ministry with a complete list of their members to ensure complete coverage. The associations' previous correspondence with government on this issue was also considered in the Regulatory Impact Statement process. The Brewery, Winery and Distillery Workers Local 300 Union also responded on this issue.

Written responses were received from both the Craft Brewers Association of British Columbia and the Western Brewers Association, three of the commercial/regional brewers, eleven of the craft brewers and six of the brew pubs. Meetings were held with representatives of Local 300, both associations, three commercial/regional brewers, three craft brewers, and three brew pubs.

11. What are the views of front-line staff?

The staff most affected by this change work within the Liquor Distribution Branch and are responsible for implementing and administering the *Liquor Distribution Act*. The staff most likely to interact with industry stakeholders are

Portfolio Managers responsible for processing applications from breweries for product listings.

It is the view of front-line staff that this change and the expected increase in listing applications will have little impact on the volume of administrative responsibility. More significantly, they believe that the interests of the public will be better served with a potentially wider variety of brewed beverage products to choose from.

The testimony of the Portfolio Manager at the Liquor Appeal Board hearing was that there was a good likelihood that the bottled brewpub product under consideration would have been given a specialty listing at the time of the original application were it not for the General Manager's Order 2/92.

Staff at the Liquor Control and Licensing Branch have provided considerable input to the Regulatory Impact Statement process. They are aware of the implications of the Minister's decision and his recommendation for further analysis in their area.

Appendix A - Comparison of Alternatives and Impacts

Impacts	**Alternative #1.** **Take action to make legislative changes to the *Liquor Distribution Act* that would support the original intent of the policy (e.g. maintain the current system)**	**Alternative #2.** **Instruct the General Manager, Liquor Distribution Branch to abide by the Supreme Court decision, resulting in brewpubs being able to apply for listings for off-site sales, and recommend further analysis of licensing-related issues by the Liquor Control and Licensing Branch, Ministry of Attorney General.**
Consumer Impacts (niche market)	• Limited access to selection and local availability of provincially produced specialty beer products	• Access to greater variety of domestically produced specialty beers • Easier, more local access to these products
Fiscal Impacts	• No significant impact to government	• Potential minor increase in administrative costs to LDB related to product listing and distribution
Business Impacts	**Brewpubs** • Limited opportunity for diversification may result in less profitability • Limited ability for sector to reach its full potential • Some may have unused excess capacity for brewing **Craft Brewers** • Continued and increasing competition from commercial brewers which are introducing specialty products	**Brewpubs** • Increased ability for diversification • Increased access to markets • Some brew pubs with unused excess capacity for brewing would become more efficient • Data dating from 1995 indicate that brew pub sales and its share of the market have both increased annually and in 1999, its sales accounted for .5% of the domestic beer market and was worth $3.5 million **Craft Brewers** • More competition from brew pubs for access to markets and consumers

Impacts	**Alternative #1.** **Take action to make legislative changes to the *Liquor Distribution Act* that would support the original intent of the policy (e.g. maintain the current system)**	**Alternative #2.** **Instruct the General Manager, Liquor Distribution Branch to abide by the Supreme Court decision, resulting in brewpubs being able to apply for listings for off-site sales, and recommend further analysis of licensing-related issues by the Liquor Control and Licensing Branch, Ministry of Attorney General.**
		• Data dating from 1995 indicate a leveling off and a slight downward trend of craft brew sales at around 4.0% of the provincial beer market • Possible economic impact on some craft brewers due to additional competitive market pressures
	Commercial/Regional Brewers • Essentially Status Quo	**Commercial/Regional Brewers** • Commercial brewers have the ability to compete in the specialty market by diversifying their products and have introduced a number of specialty brews over the past few years • Data from 1995 indicate the commercial brewers have seen a slight decline in sales volumes, but have maintained their over 95.5% market share of the provincial beer market

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Appendix B - Stakeholders

COTTAGE BREWERIES

	Cottage Brewery	Address	City	P/C			
3052	Demco Enterprises Backwoods Brewing	#3-26004 Fraser Hwy	Aldergrove	V4W 2A5			
5816	Flair Brewing Co. Ltd.	965 McGill Place	Kamloops	V2C 6N9			
3081	Fat Cat Brewery Ltd.	P.O. Box 2103 Stn. A	Nanaimo	V9R 6X9			
0718	Granville Island Brewing Co	#1000-1200 W. 73rd Avenue	Vancouver	V6P 6G5			
3050	Gulf Islands Brewery Ltd.	270 Furness Road	Salt Spring Island	V8K 1Z7			
4013	Horseshoe Bay Brewing Co.	1481 Dominion Street	North Vancouver	V7V 1B3			
3051	Lighthouse Brewing Co	Unit 2-836 Devonshire Road	Victoria	V9A 4T4			
5883	Mt. Begbie Brewing Co. Ltd.	Box 2995	Revelstoke	V0E 2S0			
5109	Nelson Brewing Co	512 Latimer Street	Nelson	V1L 4T9			
3037	R & B Brewing Co.	54 East 4th Avenue	Vancouver	V5T 1E8			
5745	Russell Brewing Co. Ltd.	#202-13018 80th Avenue	Surrey	V3W 3A8			
5785	Storm Brewing Ltd.	310 Commercial Drive	Vancouver	V5L 3V6			
5747	Tin Whistle Brewing Co.	954 W. Eckhardt Avenue	Penticton	V2A 2C1			
5882	Tree Brewing Co.	1083 Richter Street	Kelowna	V1Y 2K6			
0139	Vancouver Island Brewing Co	2330 Government Street	Victoria	V8T 5G5			
4608	Whistler Brewing Co. Ltd.	4355 Canada Way	Burnaby	V5G 1J3			
3042	Wild Horse Brewing Co	#204-399 Main Street	Penticton	V2A 5C2			
3053	Windermere Valley Brewing	P.O. Box 2784	Invermere	V0A 1K0			
3085	Chanogg Ales Ltd.	S8 C38 RR1	Sorrento	V0C 2W0			

Appendix B - Stakeholders

COTTAGE BREWERIES

S/C	Cottage Breweries	Address	City	P/C			
3052	Demco Enterprises Backwoods Brewing	#3-26004 Fraser Hwy	Aldergrove	V4W 2A5			
5685	Bear Brewing Co. Ltd.	965 McGill Place	Kamloops	V2C 6N9			
3081	Fat Cat Brewery Ltd.	P.O. Box 2103 Stn. A	Nanaimo	V9R 6X9			
0718	Granville Island Brewing Co.	#1000-1200 W. 73rd Avenue	Vancouver	V6P 6G5			
3050	Gulf Islands Brewery Ltd.	270 Furness Road	Salt Spring Island	V8K 1Z7			
4013	Horseshoe Bay Brewing Co.	1481 Dominion Street	North Vancouver	V7V 1B3			
3051	Lighthouse Brewing Co.	Unit 2-836 Devonshire Road	Victoria	V9A 4T4			
5883	Mt. Begbie Brewing Co. Ltd.	Box 2995	Revelstoke	V0E 2S0			
6109	Nelson Brewing Co.	512 Latimer Street	Nelson	V1L 4T9			
3037	R & B Brewing Co.	54 East 4th Avenue	Vancouver	V5T 1E8			
5745	Russell Brewing Co. Ltd.	#202-13018 80th Avenue	Surrey	V3W 3A8			
5785	Storm Brewing Ltd.	310 Commercial Drive	Vancouver	V5L 3V6			
5747	Tin Whistle Brewing Co.	954 W. Eckhardt Avenue	Penticton	V2A 2C1			
5882	Tree Brewing Co.	1083 Richter Street	Kelowna	V1Y 2K6			
0149	Vancouver Island Brewing Co.	2330 Government Street	Victoria	V8T 5G5			
4608	Whistler Brewing Co. Ltd.	4355 Canada Way	Burnaby	V5G 1J3			
3042	Wild Horse Brewing Co.	#204-399 Main Street	Penticton	V2A 5C2			
3053	Windermere Valley Brewing	P.O. Box 2784	Invermere	V0A 1K0			
3085	Cranogg Ales Ltd.	S6 C38 RR1	Sorrento	V0C 2W0			

B.C. COMMERCIAL BREWERIES

S/C	B.C. Commercial	Address	City, Province	P/C			
0320	Labatt Breweries of B.C.	Box 580, 210 Brunette Avenue	New Westminister	V3L 4Z2			
0352	Molson Breweries	1100-601 West Broadway	Vancouver	V5Z 4C2			
0357	Okanagan Spring Brewing Co. (Sleeman's Brewery)	2801 27A Avenue	Vernon	V1T 1T5			

REGIONAL BREWERY

S/C	Regional Brewery	Address	City, Province	P/C			
0480	Pacific Western Brewing Co.	7972 Enterprise Street	Burnaby	V5A 1V7			

BREWPUBS

S/C	Brew Pubs	Address	City	P/C			
3038	Barley Mill & Pub Ltd., The	2460 Skaha Lake Road	Penticton	V2A 6E9			
3072	Big Ridge Brewing Co. Ltd. Pship.	Unit #202 – 1110 Hamilton Street (HO)	Vancouver	V6B 2S2			
3060	Big River Brewing Co.	Unit 180-14200 Entertainment Way	Richmond	V6W 1K3			
3039	Buffalo Brewing	611 Brunswick Street	Prince George	V2L 2B9			
3064	Coquitlam Brewing Company, Inc	#1045 – 1163 Pinetree Way	Coquitlam	V3B 8A9			
3043	Creek Brewery, The	1253 Johnston Street	Vancouver	V6H 3R9			
3069	Dix Barbeque and Brewery Inc.	Unit #202 – 1110 Hamilton Street (HO)	Vancouver	V6B 2S2			
		871 Beatty Street (Site)	Vancouver	V6B 2M6			
3062	Fogg'n'Sudds	205-489 S. Dogwood Street	Campbell River	V9W 2X5			
3047	Harbour Canoe Club	450 Swift Street	Victoria	V8W 1S3			
3030	High Mountain Brewing Corp.	Unit # 202 – 1110 Hamilton Street	Vancouver	V6B 2S2			
5939	Howe Sound Brewing	P.O. Box 978	Squamish	V0N 3G0			
3063	Hugo's Capital Steakhouse	#601 – 625 Courtney Street	Victoria	V8W 1B8			
3027	Mission Springs Developments	7160 Oliver Street	Mission	V3V 6K5			
5788	Quarterdeck Brewing	375 Water Street	Vancouver	V6B 5C6			
3059	Ridge Brewing Co. & Pub	9907 Highway 3	Osoyoos	V0H 1V0			
5508	Sailor Hagars Pub Inc.	85 Semisch Avenue	North Vancouver	V7M 3H8			
0083	Spinnaker's Brew Pub	308 Catherine Street	Victoria	V9A 3S8			
4583	Swans Brew Pub (Buckerfields)	506 Pandora Avenue	Victoria	V8W 1N6			
5667	Yaletown Brewing Inc.	Unit #202 – 1110 Hamilton Street	Vancouver	V6B 2S2			

B.C. COMMERCIAL BREWERIES

[illegible]	B.C. Commercial	Address	City/Province	P/C			
0320	Labatt Breweries of B.C.	Box 580, 210 Brunette Avenue	New Westminster	V3L 4Z2			
0352	Molson Breweries	1100-601 West Broadway	Vancouver	V5Z 4C2			
0367	Okanagan Spring Brewing Co. (Sleeman's Brewery)	2801 27A Avenue	Vernon	V1T 1T5			

REGIONAL BREWERY

[illegible]	[illegible] Brewery	Address	City/Province	P/C			
0480	Pacific Western Brewing Co.	7972 Enterprise Street	Burnaby	V5A 1V7			

BREWPUBS

				P/C			
3038	Barley Mill & Pub Ltd., The	2460 Skaha Lake Road	Penticton	V2A 6E9			
3072	Big Ridge Brewing Co. Ltd. Pship.	Unit #202 – 1110 Hamilton Street (HO)	Vancouver	V6B 2S2			
3060	Big River Brewing Co.	Unit 180-14200 Entertainment Way	Richmond	V6W 1K3			
		[illegible]	[illegible]	V2L 2B9			
3064	Coquitlam Brewing Company, Inc	#1045 – 1163 Pinetree Way	Coquitlam	V3B 8A9			
		[illegible]	[illegible]	V6H 3R9			
3069	Dix Barbeque and Brewery Inc.	Unit #202 – 1110 Hamilton Street (HO)	Vancouver	V6B 2S2			
		871 Beatty Street (Site)	Vancouver	V6B 2M6			
		[illegible] Dogwood Street	[illegible]	V9W 2X5			
3047	Harbour Canoe Club	450 Swift Street	Victoria	V8W 1S3			
	[illegible] Brewing Corp.	Unit #202 – 1110 Hamilton Street	Vancouver	V6B 2S2			
5939	Howe Sound Brewing	P.O. Box 978	Squamish	V0N 3G0			
		[illegible] 26 Courtney Street	Victoria	V8W 1B8			
3027	Mission Springs Developments	7160 Oliver Street	Mission	V3V 6K5			
		370 West Street	Vancouver	V6B 5C6			
3059	Ridge Brewing Co. & Pub	9907 Highway 3	Osoyoos	V0H 1V0			
		[illegible] Avenue	North Vancouver	V7M 3H6			
0083	Spinnaker's Brew Pub	308 Catherine Street	Victoria	V9A 3S8			
	[illegible] Buchanan Ltd.	[illegible] Pkwy Avenue	Victoria	V8W 1N6			
5867	Yaletown Brewing Inc.	Unit #202 – 1110 Hamilton Street	Vancouver	V6B 2S2			

BEVERAGE ALCOHOL INDUSTRY ASSOCIATIONS

BREWERS ASSOCIATIONS

Craft Brewers Association of B.C.
Donald Ross, Chairperson
Granville Island Brewing
Suite 1000 – 1200 West 73rd Avenue
Vancouver, B.C., V6P 6G5
PH: (604) 264-0404 Local 5135
FAX: (604) 264-6810

Western Brewers Association
Greg D'Avignon, Executive Director
Bower Building
#1402 - 543 Granville Street
Vancouver, B.C. V6C 1X8
PH: (604) 659-2739
FAX: (604) 659-2747

Updated February 9, 2000
s:\cpstaff\Beverage Alcohol Industry Associations

Appendix C - Comparison with other Jurisdictions

Province or State	Brewery & Pub	Production Limits	Sales to Stores	Direct Sales to Licensees
British Columbia	Yes	No	No	No
Newfoundland	Yes	No	No	No
New Brunswick	Yes	No	Yes	Yes but kegs only in local area of pub which distributes itself
Quebec	"artisan" breweries	No	Yes	Yes
Alberta	Yes	max. 5,000 hectolitres/yr	No	Only 2, if in same municipality with the same owner(s) and same premise name
Ontario	Yes	No	No	Only 1 other establishment if brewpub owner owns 51% of it.
Nova Scotia	Yes	max. 2,000 hectolitres/yr	No	Only to a max. of 4 if same 51% owner as pub
Saskatchewan	Yes	max. 2,000 hectolitres/yr	No	Can order product through Liquor Board's special order program – rarely done
Prince Edward Island	Only 1 in the province	No	Yes	Only through Liquor Commission
Manitoba	Only 1 in the province	No	Unknown	Can - has chosen not to
Oregon	Yes	No	Sells to independent distributors	No although independent distributors can sell to them.
Washington – Brewery	Yes - Called Domestic and/or micro breweries	No	Yes	Yes
Washington – Public House	Yes - No brewery license but see production limits …	No	No	No
California	Yes - known as "small manufacturers"	No	Yes	Yes

Appendix D - Stakeholder British Columbia Sales Data

SALES IN LITRES	1995	1996	1997	1998	1999	Latest 3 months	%CHG vs PRV 12 month	LICENSEE % SALES
COMMERCIAL AND REGIONAL BREWERIES								
DRAUGHT – TOTAL	55,640,198	53,305,409	52,163,461	49,936,457	48,654,828	12,071,526	-2.57	98.38
PACKAGED – TOTAL	192,859,489	188,256,641	186,438,236	187,954,552	182,632,530	46,082,175	-2.83	13.89
TOTAL COMMERCIAL	248,499,687	241,562,050	238,601,697	237,891,009	231,287,359	58,153,701	-2.78	31.66
% CHANGE YEAR TO YEAR		(2.79)	(1.23)	(0.30)	(2.78)			
PERCENTAGE MARKET SHARE	96.68	95.79	95.36	95.62	95.39	95.63		
COTTAGE BREWERIES								
DRAUGHT – TOTAL	4,613,900	5,956,628	6,087,172	5,310,423	5,426,189	1,256,453	2.18	94.61
PACKAGED – TOTAL	3,544,842	4,167,466	4,782,603	4,628,562	4,508,504	1,121,082	-2.59	8.13
TOTAL COTTAGE	8,158,741	10,124,094	10,869,775	9,938,985	9,934,694	2,377,535	-0.04	55.36
% CHANGE YEAR TO YEAR		24.09	7.37	(8.56)	(0.04)			
PERCENTAGE MARKET SHARE	3.17	4.01	4.34	3.99	4.10	3.91		
BREW PUBS								
DRAUGHT – TOTAL	369,434	472,738	711,454	948,645	1,227,225	272,919	29.37	100
PACKAGED – TOTAL	4,158	10,529	16,480	20,937	20,123	5,229	-3.89	0.13

TOTAL BREW PUBS	373,592	483,267	727,934	969,582	1,247,348	278,148	28.65	98.39
% CHANGE YEAR TO YEAR		29.36	50.63	33.20	28.65			
PERCENTAGE MARKET SHARE	0.15	0.19	0.29	0.39	0.51	0.46		
TOTAL DOMESTIC BREWERIES								
TOTAL DOMESTIC	257,032,020	252,169,410	250,199,407	248,799,576	242,469,400	60,809,384	-2.54	32.98

SALES IN DISPLAY DOLLARS (X1000)	1995	1996	1997	1998	1999	LATEST 3 MONTHS	%CHG vs PRV 12 MO.	LICENSEE % SALES
COMMERCIAL AND REGIONAL BREWERIES								
DRAUGHT - TOTAL	121,699	119,931	121,982	121,848	121,033	29,913	-0.67	98.34
PACKAGED - TOTAL	644,207	648,037	662,021	685,352	681,851	166,763	-0.51	13.90
TOTAL COMMERCIAL	**765,906**	**767,968**	**784,003**	**807,201**	**802,884**	**196,676**	**-0.53**	**26.63**
% CHANGE YEAR TO YEAR		0.003	0.021	0.030	(0.005)			
PERCENTAGE MARKET SHARE	96.6%	95.7%	95.2%	95.5%	95.3%	95.4%		
COTTAGE BREWERIES								
DRAUGHT - TOTAL	12,454	16,463	17,168	15,077	15,841	3,680	5.06	94.52
PACKAGED - TOTAL	14,014	17,228	20,611	20,730	20,191	5,092	-2.60	7.99
TOTAL MICRO	**26,468**	**33,692**	**37,778**	**35,807**	**36,031**	**8,772**	**0.63**	**46.03**
% CHANGE YEAR TO YEAR		0.214	0.108	(0.055)	0.006			
PERCENTAGE MARKET SHARE	3.3%	4.2%	4.6%	4.2%	4.3%	4.3%		
BREW PUBS								
DRAUGHT - TOTAL	824	1,163	1,865	2,520	3,351	739	32.97	100.00
PACKAGED - TOTAL	27	70	110	139	137	36	-1.31	0.15
TOTAL BREW PUBS	**851**	**1,233**	**1,976**	**2,659**	**3,488**	**775**	**31.17**	**96.07**
% CHANGE YEAR TO YEAR		0.310	0.376	0.257	0.238			
PERCENTAGE MARKET SHARE	0.107%	0.154%	0.240%	0.314%	0.414%	0.376%		
TOTAL DOMESTIC BREWERIES								
TOTAL DOMESTIC	793,224	802,893	823,757	845,667	842,404	206,223	-0.39	27.74

Appendix E - Letters to Stakeholders

Ref: 20568

March 2, 2000

«FirstName» «LastName»
«Company»
«Address1»
«City»
«PostalCode»

Dear «FirstName» «LastName»::

As you are aware, the Supreme Court of British Columbia recently ruled that the Liquor Distribution Branch General Manager's Orders could not limit the rights of brewpubs with regard to listing applications to the Liquor Distribution Branch. In a media release dated February 16, 2000, the Minister of Small Business, Tourism and Culture, the Honourable Ian Waddell called for consultation with industry stakeholders on the impact of this ruling.

Minister Waddell has asked me to prepare a Regulatory Impact Statement in accordance with the recommendation of the Business Task Force regarding regulatory reform, streamlining, and reducing the cost of doing business in British Columbia. The purpose of a Regulatory Impact Statement is to ensure that policy objectives are clear, that impacts, costs and benefits are evaluated, and that stakeholder consultations are held. The preparation of the Regulatory Impact Statement is now underway and I would appreciate your input to ensure complete consideration of the issues.

I am aware that you may have made a recent submission to the Minister with regard to this issue. I have copies of recent correspondence and will be considering them in my report to the Minister. In the past you may have had your views expressed by an industry representative. I am asking now for your individual response to the following two questions:

1. **What would be the impact on your business of permitting brewpubs to sell their product through other licensees and liquor stores subject to**

making a successful listing application to the Liquor Distribution Branch?

2. **What would be the impact on your business if the existing legislation were amended to permit Craft and other brewers to operate on-site licensed establishments at their brewery premises?**

Please ensure that your response includes quantified data, where available, in support of your position.

Please include a contact phone number or e-mail address with your response so that we may reach you if necessary. I am prepared to meet with you in a series of small meetings. If you feel this would be useful, please indicate so in your written response.

Please respond to my attention by Monday, March 13, 2000 by FAX to (250) 356-2124 or by hand delivery to the Receptionist, Main Floor, 1405 Douglas Street, Victoria, British Columbia.

Yours truly,

Ardath Paxton Mann
Assistant Deputy Minister
Small Business Development Division

pc: The Honourable Ian Waddell,
Minister of Small Business, Tourism and Culture

Catharine Read, Deputy Minister.

Ref: 20569

March 2, 2000

«FirstName» «LastName»
«Company»
«Address1»
«City»
«PostalCode»

Dear «FirstName» «LastName»:

As you are aware, the Supreme Court of British Columbia recently ruled that the Liquor Distribution Branch General Manager's Orders could not limit the rights of brewpubs with regard to listing applications to the Liquor Distribution Branch. In a media release dated February 16, 2000, the Minister of Small Business, Tourism and Culture, the Honourable Ian Waddell called for consultation with industry stakeholders on the impact of this ruling.

The attached letter was faxed today to all brewpubs, craft/cottage brewers, and major commercial breweries in British Columbia as represented in files maintained by the Liquor Distribution Branch. While you may wish to respond to the items in my letter, your prior comments on this issue on behalf of your membership are now a matter of record and will be considered in my report.

In order to ensure that all stakeholders have been provided this opportunity to respond, I ask that you provide me with a current list of your members by fax to (250) 356-2124.

Thank you for your consideration in this matter.

Yours truly,

Ardath Paxton Mann
Assistant Deputy Minister
Small Business Development Division

pc: The Honourable Ian Waddell,
Minister of Small Business, Tourism and Culture

Catharine Read, Deputy Minister